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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/285,772	04/05/1999	KAORU YAMAMOTO	Q53891	4120

7590 04/21/2004

SUGHRUE MION ZINN MACPEAK AND SEAS  
2100 PENNSYLVANIA AVENUE NW  
WASHINGTON, DC 20037

EXAMINER

FLETCHER, JAMES A

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 04/21/2004

18

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action**

Application No.

09/285,772

Applicant(s)

YAMAMOTO ET AL.

Examiner

James A. Fletcher

Art Unit

2615

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 05 April 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

**PERIOD FOR REPLY [check either a) or b)]**

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on \_\_\_\_\_. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see Note below);
  - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_.

3. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.
4. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: \_\_\_\_\_.

Claim(s) objected to: \_\_\_\_\_.

Claim(s) rejected: \_\_\_\_\_.

Claim(s) withdrawn from consideration: \_\_\_\_\_.

8. ☐ The drawing correction filed on \_\_\_\_\_ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☒ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). 14.
10. ☐ Other: \_\_\_\_\_

Continuation of 5. does NOT place the application in condition for allowance because: In re pages 5 and 6, and claim 27, applicant's representative states, "claim 27 recites that the first control data is included with the audio title set, while the second control data is recorded at a head of the audio zone (i.e. different areas). Since Endoh discloses that both of the alleged control data are recorded in the same area (i.e. the BSI in frame header 4245), Applicant submits that Endoh fails to teach or suggest the positioning of the claimed first and second control data."

The examiner respectfully submits that although the position of the second control data is claimed to be at a head of the audio zone, the position of the first control data is left to the reader's discretion, only being broadly specified as being within the audio title set, as recited in claim 27, and is therefore not claimed to be in a "different area."

In re pages 7 and 8, and claim 29, applicant's representative states, "the fact that sounds can be selected by a user fails to teach or suggest the claimed features. For example, the first and second-type accompanying sounds are disclosed for use in the 'special use' mode (col. 5, line 33-39). As discussed above, the 'special use' mode is determined by the second code information. Therefore, even if applicant assumes arguing that the accompanying sounds disclose a first and second track, the reference fails to suggest that either of the alleged tracks are reproduced using the first code information (i.e. the alleged first control data)."

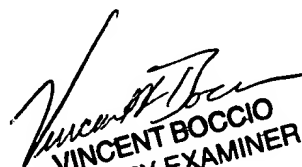
The examiner respectfully disagrees, noting that Endoh recites, "a first code information items for determining a surround mode" and "a second code information items for determining a special-use mode." The applicant's representative has confused the second code information of Endoh with the second control data of the application. In fact, the second code information of Endoh corresponds more exactly with the first control data of the application, and the "special-use" being a simpler signal, corresponds to the simple player broadly described in the claims.

In re pages 8 and 9, and claim 35, applicant's representative states, "Although the cited portion discloses that audio data can be coded by linear PCM, the portion fails to disclose that the second code information (i.e. alleged second control data) is required when coding the data by linear PCM."

The examiner respectfully responds by noting that the first code information of Endoh corresponds to the second control data, and also notes that the language of claim 35 describes reproduction, not encoding. Further, Endoh goes on to disclose that the audio coding mod indicates whether the audio stream use is in the surround mode or special use mode (Col 29, lines 32-35). Further descriptions of the use of the identification of PCM and its use in special mode can be found in columns 28 and 29.

In re pages 9 and 10, and claim 36, applicant's representative states that in Endoh, "there is no disclosure that the information is included in the second code information (i.e. alleged second control data), as recited in claim 36."

The examiner respectfully repeats that the second control data of the application corresponds to the first control codes of Endoh. Endoh clearly discloses this information to be part of the volume manager information table as shown in Fig. 8, and also as part of the first code information as indicated in Col 4, lines 12-22 "a recording medium comprising: a data area in which an array in which a first and second code information items...have been stored, and type information indicating that the type of the array is of audio data and management information including playback information determining the order in which each unit data item in the array is to be reproduced, have been recorded."

  
VINCENT BOCCIO  
PRIMARY EXAMINER